



Office of the
Ohio Consumers' Counsel

Robert S. Tongren
Consumers' Counsel

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September 13, 1996

William F. Caton
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-146

Dear Mr. Caton:

Enclosed please find the original and nine (9) copies of the Ohio Consumers' Counsel's Reply Comments to be filed in the above-referenced proceeding.

Please date-stamp and return the additional copy in the pre-addressed, postage prepaid envelope to acknowledge receipt.

Sincerely,

Andrea M. Kelsey
Andrea M. Kelsey
Assistant Consumers' Counsel

AMK/mvw
Enclosure

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policies and Rules Governing)	
Interstate Pay-Per-Call and)	CC Docket No. 96-146
Other Information Services)	
Pursuant to the Telecommunications)	
Act of 1996)	

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**REPLY COMMENTS OF THE
OHIO CONSUMERS' COUNSEL**

I. SUMMARY AND INTRODUCTION

The Ohio Consumers' Counsel (the OCC) herewith submits his replies to selected comments filed in the Order and Notice of Proposed Rulemaking (NPRM) initiated by the Federal Communications Commission (Commission) in this docket. The OCC shares the concern expressed by the Commission and commenters regarding the abuse of pay-per-call (PPC) services by information service providers (ISPs). The OCC continues to receive a high volume of complaints from consumers who have been duped by unscrupulous providers of such services. Thus the OCC welcomes the Commission's determination to close the loopholes left by the 1992 Telephone Disclosure and Dispute Resolution Act (TDDRA), and in particular, welcomes the Commission's willingness to go beyond the provisions of the Telecommunications Act of 1996 (Act) to close those loopholes (NPRM at ¶ 41). The OCC joins the National Association of Attorneys General Telecommunications Subcommittee (NAAG) in its appreciation for the Commission's

efforts in that regard. NAAG at 2. The OCC also supports additional suggestions that will strengthen consumer safeguards in the information services area.

II. DISCUSSION

A number of commenters identify additional steps that can be taken to curtail PPC abuse. The most significant of these proposals, in the OCC's estimation, is to ban the provision of information, at least on the interstate level, through any but 900 numbers. Pacific Bell and Nevada Bell (Pacific) at 9; MCI at 6 (commenting on NPRM at ¶ 48). As the United States Telephone Association (USTA) points out, many local exchange companies (LECs), whose only involvement in these transactions is billing and collection, cannot distinguish legitimate toll-free calls or international calls from those made to ISPs. USTA at 2-3. Pacific notes that it cannot distinguish legitimate 10XXX calls from those made to ISPs. Pacific at 9. If only 900 (or 976) numbers are used for PPC information services, consumers will not be under any illusion about what they are dialing. The Commission's proposed rules regarding presubscription agreements should prevent billing abuses and relieve LECs of any need to require assurances from ISPs or aggregators regarding the nature of supposedly toll-free calls. Moreover, 900 and 976 numbers can be blocked.¹ *Id.*

The TTDRA and the Act do provide for the provision of some information services over toll-free numbers. 47 U.S.C. § 228(c)(7). The Commission does, however, tentatively conclude that reliance on automatic number identification (ANI) to bill any type

¹ While 800 numbers can undoubtedly be blocked as well, many consumers have a justifiable desire to access 800 numbers on occasion and will be reluctant to block them.

of toll-free call except those using telecommunications services for the deaf should be prohibited. NPRM at ¶ 45. The OCC joins those commenters who support the Commission's conclusion, such as MCI, which notes that its tariff prohibits its customers who use 800 numbers customers from using ANI to bill customers for that service. MCI at 5; *see also* AT&T at 3; Florida Public Service Commission (FPSC) at 5; NAAG at 8. Pacific goes further, urging the Commission to expand this rule to bind ISPs and their agents. Pacific at 9. The OCC concurs.

Pacific also suggests that the use of collect calls to provide information services be banned, so that providers cannot migrate to them to evade other consumer safeguards. Pacific at 4-5. The OCC concurs with this recommendation as well.

The Commission's proposals significantly strengthen its rules regarding presubscription agreements. In conjunction with the prohibition of ANI for billing recommended above, the OCC regards the presubscription rules as generally adequate. Nevertheless, the OCC supports NAAG's suggestion that presubscription agreements must always be in writing and signed by the subscriber. NAAG at 10-11. Although ten days may be longer than is required, the OCC also supports Pacific's suggested "cooling off period." Pacific at 2-4. Ohio, as do many states, requires a three day cooling off period for certain contracts. *See, e.g.*, Ohio Rev. Code §§ 1345.22, 1345.43. While three days may be too short a time to turn around a contract that must be handled through the mail, seven days may represent a reasonable compromise. A few commenters would require the presubscriber to be the subscriber to the telephone service from which the call is placed. FPSC at 4; California Public Utilities Commission (CPUC) at 8-9. If the

subscriber chooses to be billed for information services through his phone bill, the OCC supports this requirement as well.

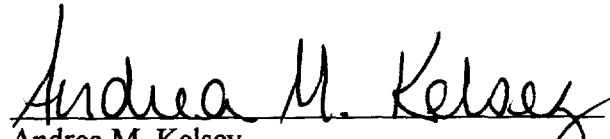
There are several other issues commenters raise. NAAG comments that the term “information services” is not defined and suggests that confusion may be avoided if a definition of that term is included in the rules. NAAG at 8. AT&T and NAAG both mention that the provision excepting “purchase of goods or of services that are not information services,” 47 U.S.C. § 228 (c)(8)(D), may open the door for ISPs to provide goods of nominal value and claim exemption from the other requirements of the section. AT&T at 4; NAAG at 10. The OCC agrees that these are possible loopholes that must be closed.

III. CONCLUSION

Again, the OCC endorses the Commission’s position that it must go beyond the explicit provisions of the TDDRA and the Act to predict the future practices of ISPs who seek to evade regulatory efforts to protect consumers from deceptive and fraudulent practices. The OCC fully backs the Commission’s proposals in this docket and submits that the Commission should adopt the further proposals that other commenters have raised and that the OCC has supported in his reply comments.

Respectfully submitted,

ROBERT S. TONGREN
OHIO CONSUMERS' COUNSEL

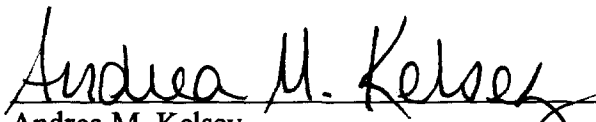

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CERTIFICATE OF SERVICE

I hereby certify that the Reply Comments of the Ohio Consumers' Counsel have been served by overnight mail to the International Transcription Service, and, in diskette form to Mary Romano on this 13th day of September, 1996.


Andrea M. Kelsey
Assistant Consumers' Counsel